

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 2, 2021/2022

### UNL1622 CONTRACT LAW II

(All Sections / Groups)

19 APRIL 2022

Reading Time : 2.45 p.m. – 3.00 p.m.

(15 Minutes)

Answering Time: 3.00 p.m. – 6.00 p.m.

(3 Hours)

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#### INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 4 Questions only.
3. This Question paper consists of 2 sections. Attempt **ONE** question only in **Section A** and all **THREE** questions in **Section B**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in **CLEAN AND ORIGINAL COPY** of the following statutes into the exam venue:
  - i. **Contracts Act 1950 (Act 136)**
  - ii. **Specific Relief Act 1950 (Act 137)**
  - iii. **Civil Law Act 1956 (Act 57)**“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

**SECTION A:**  
**ANSWER ONLY ONE QUESTION, EITHER QUESTION 1(A) OR 1(B)**

**QUESTION 1(A)**

Gopal Sri Ram JCA observed in *Loo Choo Teng & Anor v Cheok Swee Lee & Ors and another Appeal* [2000] 2 MLJ 257, CA, as follows:

“It is trite that all forms of specific relief are in the discretion of the court. It is equally trite that the discretion conferred is not a fanciful one. It is a discretion that must be exercised in accordance with sound principles. In the case of the remedy of specific performance this is made amply clear by s 21(1) of the Specific Relief Act 1950 ...”

With the help of statutory provision(s) and case law authorities, discuss how the courts decide whether to grant an order of specific performance.

(25 marks)

**Or**

**QUESTION 1(B)**

The general rule is that an injunction will be refused if it would force the defendant to perform acts that could not form the basis of a decree of specific performance.

Injunction, like specific performance, is also an equitable remedy. The discretion to grant injunction is always guided by the same principles as the grant of specific performance of a contract; where the contract is such as not to be capable of being specifically enforced, no injunction can be granted to prevent its breach. (*Vethanayagam v Karupiah & Ors* [1968] 1 MLJ 283.)

Explain the above statement.

(25 marks)

**Continued...**

## **SECTION B:**

### **ANSWER ALL QUESTIONS**

#### **QUESTION 2**

Ben owns three *Porsche* 911 cars manufactured in 1969, 1990, and 1999, respectively. He wants to sell the 1990 model but to a private buyer. He specifically advertised it for sale in the local newspaper as “For sale only to a private car collector.” Unfortunately, due to a printing error, the car advertised for sale was a 1969 model. Tony, a car dealer, wished to enquire about a 1965 model as he was informed incorrectly by a friend that Ben had the 1965 model advertised for sale in the newspaper.

Tony knew that Ben would not sell the car to him because he was a car dealer. Therefore, he telephoned Ben and said “Hello, I’m Mr. Lee. I would like to buy the car that you have advertised in the newspaper and will give the full asking price of RM390,000 for it.” Ben replied, “I’m pleased to sell the car to you Mr. Lee and I’m glad it will be in safe hands.” When Ben delivered the 1990 model, he discovered the buyer’s identity and refused to complete the sale due to a mistake, but Tony wished to enforce the contract even though the car was not a 1965 model.

Discuss the legal position.

(25 marks)

#### **QUESTION 3**

A party who fails to render complete performance of an entire contract may, however, in certain circumstances, claim remuneration for any performance done partially. One of the circumstances is where the other party has accepted the partial performance and taken benefit of the incomplete work. In most cases, such a claim would succeed upon a *quantum meruit*.

With the help of the statutory provisions and case law authorities, explain the law and its application on the following:

(a) The doctrine of substantial performance.

(15 marks)

(b) *Quantum meruit* claim.

(10 marks)

(Total 25 marks)

**Continued...**

**QUESTION 4**

Jamal, a medical doctor, engaged building contractors, Construct Sdn Bhd (CSB), to erect two identical 5-room bungalow houses on his land at Bukit Katil, as he would be retiring from the government medical services soon. It was agreed that the houses would be completed and certified fit for occupation within 18 months, in time for his retirement. On the agreed date of completion, i.e. 30<sup>th</sup> April 2021, CSB had failed to complete and deliver the houses as the construction works were only 70% completed. The houses were only completed and certified 8 months later, on 31<sup>st</sup> December 2021.

Jamal, in the meantime, had to surrender the government quarters he had been occupying during his service by end of April 2021, and had intended to move into one of the two houses soon thereafter. Since the houses were not ready for occupation then, Jamal had to rent an alternative accommodation, i.e. a spacious apartment unit for RM2,000 a month, from 1<sup>st</sup> May 2021, to accommodate his big family, and a warehouse for RM500 a month to store his furniture and two of his four cars. CSB have knowledge that Jamal was a high-ranking medical officer and would be retiring and would move to stay in the new houses with his large family.

Jamal now brings an action to claim, (1) damages for breach of contract, and (2) further damages for loss of income for the period of 8 months from May 1<sup>st</sup>, 2021. He pleaded that his losses were in terms of the monthly rentals he had to pay for alternative accommodation and storage of his property, and loss of rentals he could have earned from one of the houses which he has intended to lease out to a prospective expatriate executive of a construction company, upon completion.

Decide whether Jamal could succeed in both heads of the claim.

(25 marks)

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